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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,181	01/27/2006	Peter Jeffrey	06005	5562
23338 7590 04/30/2009 DENNISON, SCHULTZ & MACDONALD 1727 KING STREET SUITE 105 ALEXANDRIA, VA 22314				
EXAMINER CAMPBELL, VICTORIA P				
ART UNIT 3763		PAPER NUMBER		
MAIL DATE 04/30/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/566,181

**Applicant(s)**

JEFFREY, PETER

**Examiner**

VICTORIA P. CAMPBELL

**Art Unit**

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This is the second Office Action based on the 10/566181 application filed January 27, 2006. Claims 1-5 and 7-12 as presented February 12, 2009 are currently pending and considered below.

### ***Response to Amendment***

1. In light of applicant's amendments to the abstract and the claims, the examiner hereby withdraws all previous objections to the specification and drawings.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 7-12 are rejected under 35 U.S.C. 102(b) as being anticipated by USPN 5,957,897 to Jeffrey.

Regarding the above claims, Jeffery discloses the following:

1. An actuator and containment device (Fig. 10) for a syringe of the type comprising at least a barrel (325, 372) and piston means (330) displaceable within the barrel to expel any contents of the barrel, usually via a hollow needle (320), said device comprising a hollow body (311A, 311B), a spring (323) and a plunger (345), in which respect the hollow body has internal latching formations

(376) and is adapted to house the syringe barrel and piston means with any needle projecting outside the body (Fig. 10), the spring is disposed to act between the body and the syringe barrel (Figs. 10-12), which barrel, in initial use of the device, is retained against the force of the spring by means of the latching formations (Fig. 10), and the plunger is slidably located in the body to displace the piston means of the syringe, provides means (378) whereby the latching formations of the body can be disengaged from the syringe barrel enabling the spring to retract the entire syringe, including any needle, into the hollow body, and also provides a chamber for reception of at least a portion of the syringe after the spring has so acted (Fig. 12), characterised in that the plunger has deflectable edge members (347) whereby it can abut and displace the piston rod and the hollow body has internal deflector means (376) which serve to deflect the edge members of the plunger out of the path of retraction of the syringe barrel (the pressure to release the latching formations (376) flexes the barrel and permits release of the piston rod (332) into the plunger (345); Figs. 10-12).

2. A device according to claim 1 wherein the hollow body is generally of cylindrical form and has a longitudinal axis (Figs. 10-12) and also defines a main chamber (311B) in which the plunger is slidably located and a forward chamber which is of smaller cross-section than the main chamber and extends from the main chamber beyond the end of plunger movement to house the syringe barrel in initial use of the device (311A).

3. A device according to claim 2 wherein the latching formations of the body (376) are provided in the main chamber of the body adjacent to the forward chamber but lying radially outwardly with respect to the forward chamber (Fig. 10).
4. A device according to claim 1 wherein the latching formations extend generally parallel with the longitudinal axis of the hollow body to free ends which have radially inwardly directed catch means for retaining the syringe barrel against the force of the spring (376), the latching formations also being deflectable radially outwardly to enable capture of the syringe barrel by said catch means and its later release therefrom (Figs. 10-12).
5. A device according to claim 1 wherein the plunger and the latching formations have co-operating surface portions (376, 378) whereby the plunger can effect radially outward deflection of the latching formations to release the syringe barrel from the catch means (Figs. 10-12).
7. A device according to claim 1 wherein the hollow body is moulded in one piece and the latching formations are integrally moulded therewith (Col. 8, lines 40-45).
8. A device according to claim 1 wherein the latching formations are symmetrically arranged in the interior of the hollow body (Fig. 10).
9. A device according to claim 1 wherein the deflectable edge members are symmetrically arranged at the forward edge of the plunger (Fig. 10).
10. A device according to claim 1 consisting of only a hollow body (311A, 311B), a spring (323) and a plunger (345).

11. An assembly comprising a syringe and an actuator and containment device for said syringe as claimed in any preceding claim, said syringe comprising a barrel (325, 372), a hollow needle (320), and piston means (330) displaceable within the barrel to expel contents of the barrel via said needle, wherein the hollow body of the device houses the syringe barrel and piston means with the needle initially projecting outside the body and the spring is disposed inside the body and acts between the body of the device and the barrel of the syringe (Fig. 10).

12. An assembly comprising a syringe and an actuator and containment device for said syringe as claimed in claim 1, said syringe comprising at least a barrel (325, 372) and piston means (330) displaceable within the barrel to expel contents of the barrel, usually via a needle (320), wherein the hollow body of the device houses the syringe barrel and piston means and the spring is disposed inside the body and acts between the body of the device and the barrel of the syringe (Fig. 10).

### ***Response to Arguments***

4. Applicant's arguments filed February 12, 2009 have been fully considered but they are not persuasive.
5. Regarding applicant's argument that the edge members (347, not 378 as described by applicant) of the plunger of Jeffrey are not deflectable, the examiner disagrees and notes that nearly anything has some degree of deflectability when force

is applied, and this includes the edge members of Jeffrey, and these edge members do indeed abut and displace the piston rod.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA P. CAMPBELL whose telephone number is (571)270-5035. The examiner can normally be reached on Monday-Thursday, 7-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Victoria P Campbell  
Examiner, AU 3763

/Nicholas D Lucchesi/  
Supervisory Patent Examiner, Art Unit 3763